contracted to support a relative. On his failure to do so, the plaintiff cared for her while she was ill. *Held*, that he cannot recover from the defendant for his services. *Matheny* v. *Chester*, 133 S. W. 754 (Ky.).

The court denied recovery on the ground that the plaintiff was in no way affected by the defendant's contract. But it entirely overlooks the possibility of a quasi-contractual right arising from the benefit conferred by the discharge of the defendant's obligation. *Exall* v. *Partridge*, 8 T. R. 308. To establish this it must be shown that the plaintiff did not act officiously. *Dunbar* v. *Williams*, 10 Johns. (N. Y.) 249. He must act under some necessity, such as to preserve his property or discharge his debt. *Johnson* v. *Royal Mail Steam Packet Co.*, L. R. 3 C. P. 38. Even fulfilling a strong moral duty, such as supporting those in need or rendering funeral services, is enough. *Gilley* v. *Gilley*, 79 Me. 292; *Patterson* v. *Patterson*, 59 N. Y. 574. The plaintiff, moreover, must expect recompense. See KEENER, QUASI-CONTRACTS, 350. In the principal case the illness of the defendant's relative furnishes, on the authorities, sufficient necessity. The result of the decision may be right if the evidence showed that no recompense was expected, but the court's reasoning seems indefensible, since one not a party to the defendant's contract to support may be allowed recovery in quasi-contract. *Forsyth* v. *Ganson*, 5 Wend. (N. Y.) 558; *Rundell* v. *Bentley*, 53 Hun (N. Y.) 272. The decision leads to a circuity of action, since the plaintiff may recover from the defendant's relative, who may in turn sue the defendant.

RESTRAINTS ON ALIENATION — CONDITION AGAINST ALIENATION QUALIFIED AS TO PERSONS. — The testatrix devised property in fee to children and grandchildren on condition that if any of them "shall voluntarily or involuntarily alienate or devise the portion set apart for them other than to some descendant of mine (except for life to the wife or husband of some descendant of mine while such descendant may be living) and without the consent of all my descendants who shall at the time be capable of conveying real property," then over to the other descendants. *Held*, that the conditional limitation over is void. *Manierre* v. *Welling*, 78 Atl. 507 (R. I.).

It is now well settled that a condition or conditional limitation restraining an owner in fee simple from selling his land is bad. *Potter* v. *Couch*, 141 U. S. 296. And the same result follows when the restriction is against alienation within a limited time. *Mandlebaum* v. *McDonell*, 29 Mich. 78. Where the restraint is one qualified as to persons, the authorities are in hopeless confusion and no settled rule has been evolved. See GRAY, RESTRAINTS ON ALIENATION, 2 ed., §§ 31–45. One test adopted in determining the validity of such clauses is "whether the condition takes away the whole power of alienation substantially." *In re Macleay*, L. R. 20 Eq. 186, 189. But its correctness has been doubted in a later decision. *In re Rosher*, 26 Ch. D. 801, 816. It is frequently said that a condition not to alienate to particular persons is good. See *Winsor* v. *Mills*, 157 Mass. 362, 364. And this would seem to be correct, since the removal of these persons from the number of possible transferees effects practically no restraint on alienation. It is submitted as the correct rule that any condition against alienation is bad if alienation is restricted to particular individuals or a particular class, and hence the court in the main case properly held the restraint invalid.

RESTRICTIONS AND RESTRICTIVE AGREEMENTS AS TO THE USE OF PROPERTY — RESTRICTION ON USE OF LEASEHOLD PREMISES CONTINUING AFTER SURRENDER. — A had leasehold interests in two neighboring shops, in one of which he carried on the trade of a pork butcher, and in the other that of a general butcher. A sold his lease and business in the latter to the plaintiff, covenanting not to engage in the trade of general butcher within three miles. The defendant, who had notice of this covenant, decided to buy A's business; so A surrendered his lease in the first shop. The defendant took out a new lease of the

premises and there carried on the business of general butcher, from continuing which the plaintiff sought to enjoin him. *Held*, that the defendant be enjoined. *Wilkes* v. *Spooner*, 27 T. L. R. 157 (Eng., K. B. D., Dec. 16, 1910). See NOTES, p. 574.

RULE AGAINST PERPETUITIES — POWERS — VALIDITY OF POWER WHEN AN APPOINTMENT UNDER IT OF A TRANSMISSIBLE INTEREST WOULD BE TOO REMOTE. — A testator left personalty in trust for A for life, then for A's husband for life, and after the decease of A and of any husband with whom she might intermarry having any issue of A, for such of A's issue as A should by deed or will appoint, and in default of appointment for A's children then living. After A's first husband had died, A made an absolute appointment by deed to her children. *Held*, that this appointment is void for remoteness. *Re Norton*, 103 L. T. Rep. 821 (Eng., Ch. D., Dec. 20, 1910).

A power of appointment given to a living person will generally be good, since it must be exercised in the donee's lifetime. Yet a power to appoint to a class, which may not be ascertained until a period too remote, is bad, for the appointment cannot take effect within the required limits. In the principal case, however, as the objects of the power are the issue of A, the class is not too remote. Yet an appointment of a transmissible interest to any member of the class is necessarily bad; for, reading it into the instrument creating the power, it is a gift which may not vest until the death of a husband of A who was not in being at the testator's death. *Bristow* v. *Boothby*, 2 Sim. & St. 465. It has therefore been suggested that such a power is void. GRAY, RULE AGAINST PERPETUITIES, 2 ed., § 476 a. It would seem, however, to be correctly pointed out in the principal case that the power itself is valid if a lesser interest can be appointed which if read into the original instrument would not have been too remote. An appointment of life estates to issue of A living at the death of the testator would thus be good. But although the class is not too remote, the *dictum* of the court that such an appointment might be made to children of A born after the testator's death seems wrong; for though such interests must vest, if at all, during the lives of the appointees, their vesting might still be too remote from the testator's death.

TAXATION — PARTICULAR FORMS OF TAXATION — FEDERAL TAX ON CORPORATIONS MEASURED BY INCOME. — A federal statute imposed on every corporation organized in, or doing business in, any state of the United States, a special excise tax, with respect to doing business, equivalent to one *per centum* upon its entire net income over and above $5000. *Held*, that the statute is constitutional. *Flint* v. *Stone Tracy Co.*, U. S. Sup. Ct., March 13, 1911. See NOTES, p. 563.

TAXATION — PARTICULAR FORMS OF TAXATION — SUCCESSION TAX WHEN PROPERTY PASSES IN DEFAULT OF APPOINTMENT. — A Massachusetts statute provides that when a person possessing a power of appointment has failed to exercise it, a disposition of property shall be deemed to take place in the same manner as if the person becoming entitled to the property had succeeded thereto by a will of the donee of the power. Before this statute property had been conveyed to trustees to pay the income to A for life and on her death to convey to her appointee by will; in default of such will, to A's heirs at law in fee. A died without exercising the power. A's heirs questioned the constitutionality of the succession tax. *Held*, that the tax is constitutional. *Minot* v. *Stevens*, 93 N. E. 973 (Mass.).

The case is to be supported on the ground that Massachusetts law performs a service on A's death by designating A's heirs at law, and permitting the vesting of the contingent remainder in them as such. The language of the opinion, however, is far broader and asserts the validity of the enactment where the persons entitled in default of appointment hold vested interests.